

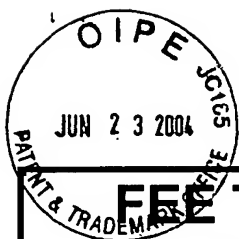
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TRANSMITTAL FORM <i>(to be used for all correspondence during pendency of filed application)</i>		U.S. Department of Commerce Patent and Trademark Office	Application Number	10/773,770
			Filing Date	February 6, 2004
			First Named Inventor	Albert K. Chin
			Group Art Unit Number	David A. Bonderer
			Examiner Name	3732
Total Number of Pages in This Submission	9*		Attorney Docket Number	80121-08836

ENCLOSURES (check all that apply)	
<input checked="" type="checkbox"/> Fee Transmittal Form (in duplicate) <input checked="" type="checkbox"/> Check Enclosed <input checked="" type="checkbox"/> Return Receipt Postcard <input type="checkbox"/> Response to Notice to File Missing Parts <input type="checkbox"/> Assignment & Recordation Cover Sheet <input type="checkbox"/> Declaration <input type="checkbox"/> Power of Attorney <input type="checkbox"/> Application Data Sheet <input checked="" type="checkbox"/> Supplemental Information Disclosure Statement & PTO/SB/08A <input checked="" type="checkbox"/> Copies of Non-U.S. IDS Cited References <input type="checkbox"/> Request for Corrected Filing Receipt <input type="checkbox"/> Request for Correction of Recorded Assignment <input type="checkbox"/> Amendment/Response: [] Page(s) <input type="checkbox"/> After Final <input type="checkbox"/> Status Request <input type="checkbox"/> Revocation and Substitute Power of Attorney	<input type="checkbox"/> Issue Fee Transmittal <input type="checkbox"/> Letter to Chief Draftsperson <input type="checkbox"/> Formal Drawing(s): [] Sheet(s) of Figure(s) [] <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
REMARKS: *Page count does not include cited references.	

SIGNATURE OF ATTORNEY OR AGENT		
Signature:		
Attorney/Reg. No.:	Albert C. Smith, Reg. No. 20,355	Dated: 6/21/04

CERTIFICATE OF MAILING		
I hereby certify that this correspondence, including the enclosures identified above, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. If the Express Mail Mailing Number is filled in below, then this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service pursuant to 37 CFR 1.10.		
Signature:		
Typed or Printed Name:	Albert C. Smith	Dated: 6/21/04
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FEE TRANSMITTAL for FY 2004

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 180.00

Complete if Known

Application Number	10/773,770
Filing Date	February 6, 2004
First Named Inventor	Albert K. Chin
Examiner Name	David A. Bonderer
Art Unit	3732
Attorney Docket No.	80121-08836

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number 19-2555

Deposit Account Name Fenwick & West LLP

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge all required fee(s) or any underpayment of fee(s) due under 37 CFR §1.16 or §1.17 during the pendency of this application

☐ Charge fee(s) indicated below, except for the filing fee

to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
	-20** =	X	
Independent Claims	-3** =	X	
Multiple Dependent			

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	**Reissue independent claims over original patent
1205	18	2205	9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

*or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(g)	
1806	180	1806	180	Submission of Information Disclosure Stmt	180
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

SUBTOTAL (3) (\$)

*Reduced by Basic Filing Fee Paid

SUBMITTED BY

Name (Print/Type)	Albert C. Smith	Registration No. (Attorney/Agent)	20,355	Complete (if applicable)	Telephone (650) 335-7296
Signature	A.C. Smith			Date	6/21/04



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Albert K. Chin, John P. Lunsford, Tenny Chang and Jeffrey W. Baxter

APPLICATION NO.: 10/773,770

FILING DATE: February 6, 2004

TITLE: Cannula-Based Surgical Instrument And Method

EXAMINER: David A. Bonderer

GROUP ART UNIT: 3732

ATTY. DKT. NO.: 80121-08836

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below:

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6/21/04

By: _____

A.C. Smith

Albert C. Smith, Reg. No.: 20,355

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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Under 37 CFR §§ 1.56 and 1.97-98

SIR:

Pursuant to the provisions of 37 CFR §§ 1.56 and 1.97-98, enclosed herewith is modified form PTO/SB/08A listing references for consideration by the Examiner. Enclosed is a copy of each listed reference that may be material to the examination of this application, and for which there may be a duty to disclose.

The filing of this Information Disclosure Statement shall not be construed as a representation regarding the completeness of the list of references, or that inclusion of a reference in this list is an admission that it is prior art or is pertinent to this application, or that a search has been made, or as an admission that the information listed is, or may be considered to be, material to patentability, or that no other material information exists, and shall not be construed as an admission against interest in any manner.

This Information Disclosure Statement is being filed:

- ☐ within three months of the filing date of the application, or date of entry into the national stage of an international application, or before the mailing date of a first office action on the merits, whichever event last occurred;

PATENT

- ☐ before the mailing of a first official action after the filing of a request for continued examination (RCE) under 37 CFR § 1.114;
- ☐ after three months of the filing date of this national application or the date of entry of the national stage in an international application, or after the mailing date of the first official action on the merits, whichever event last occurred, but before the mailing date of the first to occur of either: (1) a final action under 37 CFR § 1.113; or (2) an action that otherwise closes prosecution in the application, and:
 - ☐ attached hereto is the fee set forth under 37 CFR § 1.17(p) for submission of this Information Disclosure Statement under 37 CFR § 1.97(c); OR
 - ☐ Applicant certifies pursuant to 37 CFR § 1.97(e) that:
 - ☐ each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Statement; OR
 - ☐ no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of the person signing this certification after making reasonable inquiry, no item of information contained in this Statement was known to any individual designated under 37 CFR § 1.56(c) more than three months prior to the filing of this Statement;
- ☒ on or before the payment of the issue fee but after the mailing date of the first to occur of either: (1) a final action under 37 CFR § 1.113; (2) a notice of allowance under 37 CFR § 1.311; or (3) an action that otherwise closes prosecution in the application, and:
 - ☐ Applicant certifies pursuant to 37 CFR § 1.97(e) that:
 - ☐ each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Statement; or
 - ☐ no item of information contained in this Information Disclosure Statement was cited in a communication from a

foreign patent office in a counterpart foreign application and, to the knowledge of the person signing this certification after making reasonable inquiry, no item of information contained in this Statement was known to any individual designated under 37 CFR § 1.56(c) more than three months prior to the filing of this Statement; AND

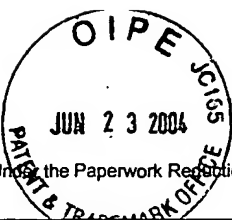
- ☒ attached hereto is the fee set forth under 37 CFR §1.17(p) for submission of this Information Disclosure Statement under 37 CFR. § 1.97(c); OR
- ☐ after the payment of the issue fee. Applicant requests that the information contained in this Information Disclosure Statement be placed in the file according to 37 CFR § 1.97(i), although the information may not be considered by the USPTO.
- ☐ This application relies, under 35 U.S.C. § 120, on the earlier filing date of prior application No. APPLICATION NO., filed on DATE FILED, and the references cited therein are hereby referenced, but are not required to be provided in this application under 37 CFR § 1.98(d).
- ☐ Each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not received by any individual designated in 37 CFR § 1.56(c) more than thirty days prior to the filing of this Information Disclosure Statement. 37 CFR § 1.704(d).
- ☐ Applicant submits that no fee is required for the consideration of this Information Disclosure Statement.

Consideration of the listed references and favorable action are solicited.

Respectfully submitted,
ALBERT K. CHIN, ET AL.

Dated: 6/21/04

By: Albert C. Smith
Albert C. Smith, Reg. No.: 20,355
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
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Fax.: (650) 938-5200



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PTO/SB/08A (10-01)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

Complete if Known

Application No.	10/773,770
Filing Date	February 6, 2004
First Named Inventor	Albert K. Chin
Art Unit	3732
Examiner Name	David A. Bonderer
Attorney Docket Number	80121-08836

Sheet 1 of 4

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document No. Number - Kind Code ² (if known)	Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document
		US-6,387,043	05-14-2002	Yoon
		US-6,176,825	01-23-2001	Chin, et al.
		US-6,162,173	12-19-2000	Chin, et al.
		US-5,938,620	08-17-1999	Daxer
		US-5,897,487	04-27-1999	Ouchi
		US-5,895,353	04-20-1999	Lunsford, et al.
		US-5,895,352	04-20-1999	Kleiner
		US-5,762,606	06-09-1998	Minnich
		US-5,738,628	04-14-1998	Sierocuk, et al.
		US-5,722,934	03-03-1998	Knight, et al.
		US-5,716,352	02-10-1998	Viola, et al.
		US-5,713,505	02-10-1998	Scherer
		US-5,704,534	01-06-1998	Huitema, et al.
		US-5,702,408	12-30-1997	Wales, et al.
		US-5,690,606	11-25-1997	Slotman
		US-5,685,820	11-11-1997	Riek, et al.
		US-5,680,982	10-28-1997	Schulze, et al.
		US-5,673,840	10-07-1997	Schulze, et al.
		US-5,662,662	09-02-1997	Bishop, et al.
		US-5,656,012	08-12-1997	Sienkiewicz
		US-5,634,584	06-03-1997	Okorocho et al.
		US-5,630,787	05-20-1997	Yabe et al.
		US-5,626,587	05-06-1997	Bishop et al.
		US-5,588,581	12-31-1996	Conlon et al.

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609.

Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Applicant's unique citation designation number (optional). ²See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶Applicant is to place a check mark here if English language Translation is attached.

80121/08836/DOCS/1443793.1
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Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT****Complete if Known**

Application No.	10/773,770
Filing Date	February 6, 2004
First Named Inventor	Albert K. Chin
Art Unit	3732
Examiner Name	David A. Bonderer
Attorney Docket Number	80121-08836

Sheet 2 of 4

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document No. Number – Kind Code ² (if known)	Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document
		US-5,569,183	10-29-1996	Kieturakis
		US-5,564,615	10-15-1996	Bishop et al.
		US-5,558,620	09-24-1996	Heckele et al.
		US-5,554,101	09-10-1996	Matula, et al.
		US-5,553,496	09-10-1996	Nishiyama, et al.
		US-5,535,759	07-16-1996	Wilk
		US-5,514,153	05-07-1996	Bonutti
		US-5,512,037	04-30-1996	Russell et al.
		US-5,505,686	04-09-1996	Willis et al.
		US-5,501,654	03-26-1996	Failla et al.
		US-5,450,842	09-19-1995	Tovey et al.
		US-5,419,309	05-30-1995	Biehl
		US-5,395,383	03-07-1995	Adams et al.
		US-5,374,277	12-20-1994	Hassler
		US-5,370,109	12-06-1994	Cuny
		US-5,368,015	11-29-1994	Wilk
		US-5,345,927	09-13-1994	Bonutti
		US-5,339,803	08-23-1994	Mayzels et al.
		US-5,337,736	08-16-1994	Reddy
		US-5,284,128	02-08-1994	Hart
		US-5,275,608	01-04-1994	Forman et al.
		US-5,271,385	12-21-1993	Bailey
		US-5,251,613	10-12-1993	Adair
		US-5,230,621	07-27-1993	Jacoby

Examiner Signature		Date Considered	
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Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Applicant's unique citation designation number (optional). ²See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶Applicant is to place a check mark here if English language Translation is attached.

80121/08836/DOCS/1443793.1

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT				Application No.	10/773,770
				Filing Date	February 6, 2004
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Sheet	3	of	4	Attorney Docket Number	80121-08836

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Examiner Initials*	Cite No. ¹	Document No. Number – Kind Code ² (if known)	Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document
		US-4,991,565	02-12-1991	Takahashi et al.
		US-4,874,375	10-17-1989	Ellison
		US-4,858,595	08-22-1989	Buess, et al.
		US-4,838,246	06-13-1989	Hahn, et al.
		US-4,773,394	09-28-1988	Reichstein et al.
		US-4,744,363	05-17-1988	Hasson
		US-4,667,655	05-26-1987	Ogiu, et al.
		US-4,651,733	03-24-1987	Mobin-Uddin
		US-4,428,746	01-31-1984	Mendez
		US-4,232,660	11-11-1980	Coles
		US-4,190,042	02-26-1980	Sinnreich
		US-3,866,601	02-18-1975	Russell
		US-3,857,386	12-31-1974	Ashbell
		US-3,835,841	09-17-1974	Terada
		US-3,357,433	12-12-1967	Fourestier et al.
		US-3,313,294	04-11-1967	Uddenberg
		US-2,281,190	04-28-1942	Bertalan et al.
		US-2,227,727	01-07-1941	Leggiadro
		US-2,220,720	11-05-1940	Jett
		US-2,162,681	06-13-1939	Ryan
		US-1,727,495	09-10-1929	Wappler
		US-79,015	06-16-1868	Schulz

Examiner Signature		Date Considered	
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				Filing Date	February 6, 2004
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				Art Unit	3732
				Examiner Name	David A. Bonderer
Sheet	4	of	4	Attorney Docket Number	80121-08836

FOREIGN PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Foreign Patent Document Country Code ³ – Number ⁴ Kind Code ⁵ (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	T ⁶
		EP 0681811 A2	11-15-1995	United States Surgical Corporation	
		EP 0761171 A2	03-12-1997	Olympus Optical Co., Ltd.	
		WO 97/26831	07-31-1997	Origin Medsystems, Inc.	

OTHER REFERENCES – NON-PATENT LITERATURE DOCUMENTS				
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T ⁶	

Examiner Signature		Date Considered	
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